IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 578 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHOBHALAL B JAIN

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR BY MANKAD APP for Respondent No. 1

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 21/11/2000

ORAL JUDGEMENT

The original appellant Shri Shobhalal B. Jani of Criminal Appeal No.22 of 1998 which was pending on the file of Sessions Court, Valsad at Navsari, has by preferring this Criminal Revision Application under sec. 397 of the Criminal Procedure Code, 1973 (for short

"Cr.P.C."), challenged legality, correctness, and propriety of judgment Ex.20 dt. 30th September, 1999 rendered by the learned Additional Sessions Judge, Valsad at Navsari (who will be referred to as the learned Appellate Judge) in aforesaid Criminal Appeal No.22 of 1998.

2. The facts leading to this present Criminal Revision Application, in a nut shell, are as under:

As it reveals from memo of this Criminal Revision Application, the Supply Inspector paid a visit to business place of petitioner at about 5-30 p.m. on 08-02-1997 and on making inspection, the Supply Inspector found that there was a short fall in stock of commodities like suger, Vegetable Ghee, Repeseed Tins, Custored Oil, edible oil tins, soyabean oil etc. as listed in Para 1 of show cause notice Annexure : B given by the Collector, Valsad to the petitioner. It was also noticed that the present revision -petitioner as well as his son have shown same business place in their respective licences. The Inspector who paid the visit and inspected the premises has recorded the statement of petitioner on the same day. The petitioner had explained alleged short fall by his say that there was a mistake on his part in writing the correct dates in the bills. It was the say of the petitioner that in the bills, instead of date 8/2/1997, dates were written as 07-02-97 and if bills dated 7/2/97 are considered, then there was no short fall of any stock in any item. To explain this, the petitioner has submitted a list Annexure : A. Thereafter, report was placed before the Collector, Valsad and on the basis of that report, the Collector issued a show cause notice dated 7/3-4-1997. That show cause notice is at Annexure : B. The petitioner submitted his written reply in reply to that show cause notice of which a copy is not placed but contents of that written reply are referred to in the order passed by the Collector, Valsad. Thereafter on 28/7/1997, the Collector, Valsad passed an order under Sec.6-A of the Essential Commodities Act, 1955 (for short " the Act"), whereby he ordered to confiscate the items of which short fall was noticed by the Inspector. That order is at Annexure : C.

3. Being aggrieved against and dissatisfied with the said order dt. 28/7/1997 of the Collector, Valsad (Annexure:C), the revision petitioner preferred Criminal Appeal No.22 of 1998 to the Sessions Court, Valsad at Navsari. After hearing, the arguments of the learned advocates for both the parties and after perusing all the

relevant documents, the learned Appellate Judge, partly allowed the appeal and confirmed the order with regard to confiscation of the articles passed by the Collector, Valsad.

4. Being aggrieved against and dissatisfied with the said judgment Exh.20 and order dt. 30/9/1999 rendered in Criminal Appeal No.22 of 1998, the appellant of that appeal has preferred this present Criminal Revision Application.

5. When this matter was taken up for final hearing, the learned advocates for both the parties jointly submitted that order dated 30/9/1999 passed in Criminal Appeal No.22 of 1998 so far as it confirms the order of confiscation of articles is concerned and order dt. 28/7/1997 passed by the Collector, Valsad be set aside without assigning any reasons in the judgment of this Court, with a further request that necessary directions be given to the Collector, Valsad.

5. In view of what is observed and discussed hereinabove, this Criminal Revision Application deserves to be allowed, and accordingly it is allowed. Order No: SUP/ENFO/Regi.No:84/97-98 dated 28/7/1997 (Annexure "C") passed by the Collector, Valsad, and Judgment Exh.20 dated 30-09-1999 rendered by the learned Additional sessions Judge, Valsad at Navsari in Criminal Appeal No.22 of 1998, both are set aside. The Collector, Valsad is directed to initiate a proceeding afresh under Sec.6-A of the Act, if he deems fit, by affording full opportunity of being heard to both the parties without being influenced by the order of this Court and he will take suitable and legal decision keeping in mind the observations of this Court contained in Para 13 of a decision of this Court rendered in case of DEVIKA DEVI WIFE OF PREMJIBHAI RUPAREL vs. STATE OF GUJARAT AND ANOTHER, reported in 1983(1), 24(1) G.L.R. 215.

6. As the present matter is of 1997, the Collector, Valsad is directed to initiate and complete the proceedings under Sec.6-A of the Act with regard to subject matter of this Criminal Revision Application within one month from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent.

Date: 21/11/2000. (H.H.MEHTA,J.)
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